



COPY OF PAPERS
ORIGINALLY FILED

2163
#13
n 26
P/3748-4
7-8-02

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Derek LIDOW

Date: May 21, 2002

Serial No.: 09/758,509

Group Art Unit: 2163

Filed: January 11, 2001

Examiner: not assigned

COPY OF PAPERS
ORIGINALLY FILED

For: SUPPLY CHAIN ARCHITECTURE

Assistant Commissioner for Patents

Washington, D.C. 20231

Attention: Pinchus M. Laufer

Special Programs Examiner

Technology Center 2100

Computer Architecture, Software and Electronic Commerce

RECEIVED

JUN 12 2002

Technology Center 2100

REQUEST FOR RECONSIDERATION AND RENEWED
PETITION TO MAKE NEW APPLICATION
SPECIAL UNDER 37 C.F.R. §1.102 AND MPEP §708.02 VIII

Sir:

Introduction

This is a request for Reconsideration of the Decision on Petition of March 21, 2002 in the above-identified patent application for accelerated examination under MPEP §708.02 VIII and/or a Renewed Petition to make this application special under 37 C.F.R. §1.102 and MPEP §708.02 VIII. This application has not yet been examined. Granting of this renewed Petition and/or Request for Reconsideration is earnestly solicited. A two month response period for this renewed petition/request was set by the Decision of March 21, 2002.

In the Decision on Petition mailed March 21, 2002, the Patent and Trademark Office decided that Applicant's submission was deficient

"in that it merely provides a short one-sentence description of many of the references, or reproduces a portion of the Abstracts provided in the references. That is, the submission does not satisfy the requirement, as it does not provide a *detailed discussion* of the references with the particularity required by 37 C.F.R. 1.111(b) and (c)."

RECEIVED

JUN 19 2002

GROUP 3600

As requested by the Examiner, Applicant has rewritten the discussion of the references to particularly identify those portions of the claims not taught or suggested by the references, and further has analyzed the references to explain why the references do not teach or suggest the invention, as recited in the claims. Accordingly, this is a request for reconsideration and/or a renewed petition to make this application special.

1. Claims:

- (a) All of the claims in this case are directed to a single invention.
- (b) If the Office determines that all the claims presented are not directed to a single invention, applicant will make an election, without traverse, as a prerequisite to the grant of special status.

2. Search:

As previously stated in the original petition, a search was made in the U.S. Patent and Trademark Office Internet database on class 705, subclasses 1, 7, 10, 35, and 39. Key word searching was also utilized to augment the search.

3. Copies of References:

The patents uncovered and deemed most clearly related to the subject matter encompassed by the claims were included with a form PTO-1449 to the original petition. New copies are not being supplied herewith. These references are:

<u>U.S. Patent No.</u>	<u>Inventor</u>	<u>Date</u>
4,799,156	Shavit et al.	January 17, 1989
5,946,662	Ettl et al.	August 31, 1999
5,953,707	Huang et al.	September 14, 1999
5,974,395	Bellini et al.	October 26, 1999
6,151,582	Huang et al.	November 21, 2000

6,167,385

Hartley-Urquhart

December 26, 2000

6,324,522

Peterson et al.

November 27, 2001

4. **Discussion of References:**

U.S. Patent No. 4,799,156 to Shavit et al. ("Shavit")

This patent describes an interactive, broad spectrum business transaction processing system providing concurrent electronic access to various members of an industry. The interactive market management system, as disclosed in Shavit, provides concurrent sessions with multiple parties. The system also allows individual subscribers to use the network as a means to provide their own proprietary commercial and information services. After a user of the system disclosed in Shavit selects a desired service, the user selects a party with whom to interact. For example, a seller communicates with a financial institution to arrange financing while a supplier concurrently procures a needed item and arranges for shipment with a freight carrier.

Applicant maintains that the Shavit reference fails to teach or suggest the invention as claimed in Applicant's above-identified patent application.

Turning to independent claim 1 of the present application, claim 1 recites a method of processing customer demands by receiving forecasted demands from at least one customer, analyzing the demands to determine whether they are valid, and sending the demands to at least one supplier when the forecasted demands are valid. The Shavit reference, in contrast, fails to teach or suggest a method of receiving forecasted demands, analyzing them to determine their validity, and thereafter sending the demands to at least one supplier. Shavit teaches, instead, concurrent communications with a plurality of different parties. After a user selects a desired service, that user is asked to select the party with whom he wants to interact, for example, a specific distributor or a freight company (column 6, lines 52-62). Also, for example, distributors present customers with different choices in menus since the distributors choose the services that are preferably offered, including different databases and services made available (column 12, lines 54-63).

Furthermore, Fig. 3 shows in steps 118, 122, 126 and 130 that a user signs in to specific third party sources and services to receive communications and process business transactions therewith. There is not, Applicant maintains, any showing of a process that receives forecasted demands from a customer, a determination of whether the forecasted demands are valid, and thereafter, sending the forecasted demands to at least one supplier when the forecasted demands are valid.

Further, Shavit does not teach or suggest aggregating forecasted demands, sending products to a cross dock, or processing customer demands, via a supply chain server as featured the in other independent claims defining Applicant's invention.

Specifically, independent claims 29, 44, 56, 57, 58 and 65 are distinguishable over Shavit because of features discussed above with regard to independent claim 1. Moreover, independent claims 70, 98, 113, 125, 126, 127 and 128 are system claims corresponding to the above-identified method claims. Applicant maintains that Shavit fails to teach or suggest the features identified in these claims for the same reason as identified above with respect to the corresponding method claims.

Independent claim 50 is directed to financing a purchase of a product and further includes sending a product to at least one customer from at least one supplier, sending a payment for the product from a bank to a third party, forwarding the payment from the third party to the supplier, and sending a customer payment for the product from the customer to the bank. Applicant respectfully maintains that Shavit does not teach or suggest the features defined in independent claim 50.

Independent claim 119 is a corresponding system claim to claim 50, and is, Applicant maintains, distinguishable over Shavit for the same reasons as set forth with regard to claim 50.

Independent claim 59 is directed to insuring for supply/demand fluctuation and includes features of receiving a product from at least one supplier, retaining the product until at least one customer experiences an unforeseen shortage in supply of the product and sending the product to a corresponding customer. Applicant respectfully maintains that Shavit does not teach or suggest the features defined in independent claim 59.

Therefore, for the reasons set forth Applicant submits, in accordance with 37 CFR 1.111(b) and (c) and MPEP §708.02VIII(E) that the portions in the claims that patentably distinguish the invention from the Shavit reference are specifically identified .

U.S. Patent No. 5,946,662 to Ettl et al. ("Ettl")

This patent describes a method for providing inventory optimization for varying levels of products in a complex supply chain network. Asset managers use the invention disclosed in Ettl to quantitatively assess a tradeoff between inventory and service level (column 1, line 55 - column 2, line 11). Applicant maintains that, unlike the present invention, the invention disclosed in Ettl does not "[focus] too much attention on operational issues." *Id.* Unlike Applicant's invention, many operational aspects of inventory management in supply chains are not addressed by the invention in Ettl. Instead, Ettl discloses a strategic analysis tool for asset managers to assess total required inventory investment to meet different service level specifications (column 3, lines 1-4).

As noted above with respect to the analysis of Shavit, independent claim 1 recites a method of processing customer demands by receiving forecasted demands from at least one customer, analyzing the demands to determine whether they are valid, and sending the demands to at least one supplier when the forecasted demands are valid. Applicant respectfully maintains that Ettl does not teach or suggest a supply chain architecture, including a supply chain server in which forecasted demands are received and analyzed for validity, and after they are validated, sent to a supplier. Further, Ettl does not teach or suggest aggregating forecasted demands, sending products to a cross dock, or processing customer demands via a supply chain server.

Further, Ettl does not teach or suggest aggregating forecasted demands, sending products to a cross dock, or processing customer demands, via a supply chain server as featured in other independent claims defining Applicant's invention.

Specifically, independent claims 29, 44, 56, 57, 58 and 65 are distinguishable over Ettl because of features in those claims and features discussed above with regard to independent

claim 1. Moreover, independent claims 70, 98, 113, 125, 126, 127 and 128 are system claims corresponding to the above-identified method claims. Applicant maintains that Ettl fails to teach or suggest the features identified in these claims for the same reason as identified above with respect to the corresponding method claims.

Independent claim 50 is directed to financing a purchase of a product and further includes sending a product to at least one customer from at least one supplier, sending a payment for the product from a bank to a third party, forwarding the payment from the third party to the supplier, and sending a customer payment for the product from the customer to the bank. Applicant respectfully maintains that Ettl does not teach or suggest the features defined in independent claim 50.

Independent claim 119 is a system claim corresponding to claim 50, and is, Applicant maintains, distinguishable over Ettl for the same reasons as set forth with regard to claim 50.

Independent claim 59 is directed to insuring for supply/demand fluctuation and includes features of receiving a product from at least one supplier, retaining the product until at least one customer experiences an unforeseen shortage in supply of the product and sending the product to a corresponding customer. Applicant respectfully maintains that Ettl does not teach or suggest the features defined in independent claim 59.

Therefore, for the reasons set forth Applicant believes that he has specifically identified the portions in the claims that patentably distinguish the invention from the Ettl reference.

U.S. Patent No. 5,953,707 to Huang et al. ("Huang #1") and U.S. Patent No. 6,151,582 to Huang et al. ("Huang #2")

Huang #1 and #2 disclose a decision support system for a manufacturing supply chain. A system is provided therein that allows a decision maker in a supply chain to view the chain from their own perspective and understand the effect that their decisions have on a supply chain as a whole. (See Column 1, lines 18-26, column 11, lines 19-26). Huang #1 and #2 further support the execution of decision support functionality (column 6, lines 38-41). Moreover, the invention in Huang provides data that supports business decisions by characterizing links between data

elements and data processes (column 11, lines 5-10). Additionally, the planning/forecast process described in Huang #1 and #2 is directed to developing a sales forecast from suppliers, not customer forecasts based on demand.

Applicant respectfully contends that, while this information is helpful in a supply chain to plan for the myriad of variables that occur, the disclosure in Huang #1 and #2 does not anticipate Applicant's novel method of receiving forecasted demands from a customer and, after validating the forecasted demands, forwarding the demands to a supplier. Instead, the planning/forecast process described in Huang #1 and #2 is directed to developing a sales forecast from suppliers, not customer forecasts based on demand.

Further, Huang #1 and #2 do not teach or suggest aggregating forecasted demands, sending products to a cross dock, or processing customer demands, via a supply chain server as featured the in other independent claims defining Applicant's invention.

Specifically, independent claims 29, 44, 56, 57, 58 and 65 are distinguishable over Huang #1 and #2 because of features in those claims and the features discussed above with regard to independent claim 1. Moreover, independent claims 70, 98, 113, 125, 126, 127 and 128 are system claims corresponding to the above-identified method claims. Applicant maintains that Huang #1 and #2 fail to teach or suggest the features identified in these claims for the same reason as identified above with respect to the corresponding method claims.

Independent claim 50 is directed to financing a purchase of a product and further includes sending a product to at least one customer from at least one supplier, sending a payment for the product from a bank to a third party, forwarding the payment from the third party to the supplier, and sending a customer payment for the product from the customer to the bank. Applicant respectfully maintains that Huang #1 and #2 do not teach or suggest the features defined in independent claim 50.

Independent claim 119 is a system claim corresponding to claim 50, and is, Applicant maintains, distinguishable over Huang #1 and #2 for the same reasons as set forth with regard to claim 50.

Independent claim 59 is directed to insuring for supply/demand fluctuation and includes features of receiving a product from at least one supplier, retaining the product until at least one customer experiences an unforeseen shortage in supply of the product and sending the product to a corresponding customer. Applicant respectfully maintains that Huang #1 and #2 do not teach or suggest the features defined in independent claim 59.

Therefore, Applicant maintains that the identified portions in Huang #1 and #2 patentably distinguish it from Applicant's invention.

U.S. Patent No. 5,974,395 to Bellini et al. ("Bellini")

This patent discloses a system for extended enterprise planning in a supply chain. Bellini sets out to solve problems with respect to achieving customer driven goals via electronic data interchange. Specifically, Bellini recognizes that electric data interchange lacks bi-directional, vertically integrated production planning within a supply chain and causes problems in that plans are based upon old and, often, inaccurate information (column 1, lines 39-56). As disclosed in Bellini, and specifically shown in Figures 5A, 5B and 5C, a demand forecast is received from a first enterprise (i.e., a customer) to a second enterprise (i.e., a supplier). The second enterprise, after approving the forecast, connects to the first enterprise's planning server and transmits its demand forecast thereto. Supply chain processes between the two enterprises, as disclosed in Bellini, continue, thus providing the enterprises with a means for communicating information between one another and integrating that information for supply chain planning (column 10, line 29 - column 11, line 5).

Unlike Bellini, however, Applicant's invention is directed to an intermediary source, such as a server, that receives a demand forecast from a customer. The forecast is then validated from a set of rules, including, for example, whether the forecasts correspond to existing contractual relationships or obligations, and when validated, the requests are sent to a supplier. This is in contradistinction to Bellini, wherein communication is provided directly between the various enterprise players.

Therefore, Applicant maintains that the identified portions in Bellini patentably distinguish it from Applicant's invention.

U.S. Patent No. 6,167,385 to Hartley-Urquhart ("Hartley-Urquhart")

Hartley-Urquhart discloses a method for financing a supply of goods in a supply chain. As disclosed in Hartley-Urquhart, a buyer, supplier, and financial institution provide arrangements for financing of goods in the supply chain. After a buyer accepts goods in accordance with the agreement set up between the supplier, buyer and financial institution, the financial institution pays the supplier (column 5, line 58-60). The client thereafter emits the gross proceeds to the bank and the transaction is settled (column 6, lines 1-3).

Applicant's invention, in contrast, is directed to financing a purchase of a product by at least one customer from at least one supplier wherein, after the product is sent to the customer from the supplier, a financing payment is paid from the bank to a third party, and the third party forwards the financing payment to the supplier. Thereafter, similar to the invention disclosed in Hartley-Urquhart, the customer provides payment for the product to the bank. Hartley-Urquhart does not teach or suggest financing in which a financing payment is sent from a bank to a third party, and forward the payment from the third party to the supplier. Moreover, Hartley-Urquhart does not teach or suggest a financing system in which a financial institution sends payment to a supply chain server, and the supply chain server forwards the payment to the supplier.

Therefore, Applicant maintains that the identified portions in Hartley-Urquhart patentably distinguish it from Applicant's invention.

U.S. Patent No. 5,324,522 B2 to Peterson et al. ("Peterson")

Peterson discloses integrating a maintenance supply network with an information network for selectively distributing information about inventory levels and pricing among vendors, manufacturers and users and, moreover, to transfer inventory between the parties. While Peterson does disclose communication over a supply chain network, there is no indication of receiving forecasted demands from at least one customer, analyzing, validating, and sending

the forecasts to at least one supplier. Instead, as shown in Figure 9, users search for specific inventory and request the inventory (column 15, line 15-36). The functionality disclosed by Peterson, for example, reviewing inventories, learning about specific products, searching for buying groups, does not suggest receiving forecasted demands from at least one customer, and sending the forecasted demands to one or more suppliers after the forecasted demands are validated.

Further, Peterson does not teach or suggest aggregating forecasted demands, sending products to a cross dock, or processing customer demands, via a supply chain server as featured the in other independent claims defining Applicant's invention.

Specifically, independent claims 29, 44, 56, 57, 58 and 65 are distinguishable over Peterson because of features in those claims and the features discussed above with regard to independent claim 1. Moreover, independent claims 70, 98, 113, 125, 126, 127 and 128 are system claims corresponding to the above-identified method claims. Applicant maintains that Peterson fails to teach or suggest the features identified in these claims for the same reason as identified above with respect to the corresponding method claims.

Independent claim 50 is directed to financing a purchase of a product and further includes sending a product to at least one customer from at least one supplier, sending a payment for the product from a bank to a third party, forwarding the payment from the third party to the supplier, and sending a customer payment for the product from the customer to the bank. Applicant respectfully maintains that Peterson does not teach or suggest the features defined in independent claim 50.

Independent claim 119 is a system claim corresponding to claim 50, and is, Applicant maintains, distinguishable over Peterson for the same reasons as set forth with regard to claim 50.

Independent claim 59 is directed to insuring for supply/demand fluctuation and includes features of receiving a product from at least one supplier, retaining the product until at least one customer experiences an unforeseen shortage in supply of the product and sending the product to

a corresponding customer. Applicant respectfully maintains that Peterson does not teach or suggest the features defined in independent claim 59.

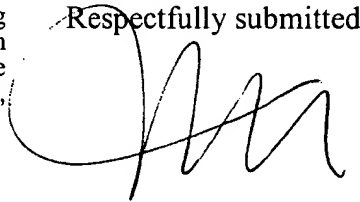
Therefore, Applicant maintains that the identified portions in Peterson patentably distinguish it from Applicant's invention.

5. Fee:

Please charge any fee in connection with this renewed petition and/or request for reconsideration or charge any other fees or credit any overpayment in connection with this communication to Deposit Account No. 15-0700.

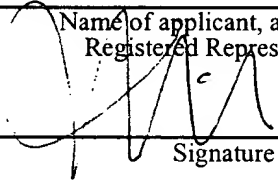
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on May 21, 2002:

Respectfully submitted,



James A. Finder

Name of applicant, assignee or
Registered Representative



Signature

May 21, 2002

Date of Signature

James A. Finder

Registration No.: 30,173

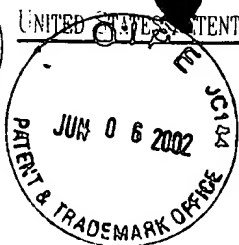
OSTROLENK, FABER, GERB & SOFFEN, LLP

1180 Avenue of the Americas

New York, New York 10036-8403

Telephone: (212) 382-0700

JAF:JJF:ck:sds



USPTO FILE NO. 09/758,509
PATENTS ORDERED 43

COPY OF PAPERS
ORIGINALLY FILED

APR 1 - 2002

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 9

Peter McGee
OSTROLENK, FABER, GARB and SOFFEN
1725 K. Street, N.W.
Washington, D.C.

MAILED

MAR 21 2002

Technology Center 2100

In re Application of: Derek Lidow)
Application No. 09/758,509)
Filed: January 11, 2001)
For: SUPPLY CHAIN ARCHITECTURE)
DECISION ON PETITION FOR
ACCELERATED EXAMINATION
UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed December 5, 2001 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);
- (b) Presents all claims directed to a single invention, ...
- (c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated.** The application will remain in the status of a new application awaiting action in its regular turn. In

RECEIVED
JUN 19 2002
GROUP 3600

Decision on Petition to Make Special

those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that it merely provides a short one-sentence description of many of the references, or reproduces a portion of the Abstracts provided in the references. That is, the submission does not satisfy the requirement, as it does not provide a *detailed discussion* of the references with the particularity required by 37 CFR 1.111(b) and (c).

Accordingly, the Petition is DISMISSED. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.



Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160